

VZCZCXYZ0003
PP RUEHWEB

DE RUEHNY #1199/01 2711215
ZNY CCCCC ZZH
P 281215Z SEP 06
FM AMEMBASSY OSLO
TO RUEHC/SECSTATE WASHDC PRIORITY 4668
INFO RUEHAK/AMEMBASSY ANKARA PRIORITY 0213
RUEHBJ/AMEMBASSY BEIJING PRIORITY 0732
RUEHRL/AMEMBASSY BERLIN PRIORITY 0560
RUEHBR/AMEMBASSY BRASILIA PRIORITY 0132
RUEHBS/AMEMBASSY BRUSSELS PRIORITY 6517
RUEHCP/AMEMBASSY COPENHAGEN PRIORITY 2136
RUEHDL/AMEMBASSY DUBLIN PRIORITY 0200
RUEHLO/AMEMBASSY LONDON PRIORITY 1379
RUEHMD/AMEMBASSY MADRID PRIORITY 1749
RUEHFR/AMEMBASSY PARIS PRIORITY 0929
RUEHUL/AMEMBASSY SEOUL PRIORITY 0775
RUEHSM/AMEMBASSY STOCKHOLM PRIORITY 2932
RUEHKO/AMEMBASSY TOKYO PRIORITY 1576
RUEHWR/AMEMBASSY WARSAW PRIORITY 1336
RUEHBS/USEU BRUSSELS PRIORITY

C O N F I D E N T I A L OSLO 001199

SIPDIS

SIPDIS

STATE FOR EUR/NB DALLAND; EB/TPP/IPE FOR BSOILA; DOC FOR
4212 MAC/EUR/OEURA; JUSTICE FOR JOHN ZACHARIA; STATE PLEASE
PASS TO USTR FOR JASON BUNTIN AND TANUJA GARDE

E.O. 12958: DECL: 09/27/2016

TAGS: [ECON](#) [ETRD](#) [EIND](#) [EINV](#) [NO](#) [KIPR](#)

SUBJECT: NORWAY, DRM DEMARCHE AND APPLE: OMBUDSMAN CHANGES
HIS ITUNE?

REF: A. STATE 160668

[1](#)B. OSLO 811

Classified By: DCM Kevin M. Johnson, Reasons 1.4 (b) and (d)

[1](#)1. (C) Summary. Norway is not planning any overhaul of its existing intellectual property rights (IPR) regulations. Government officials specializing in IPR matters emphasize the continued need to protect rights holders protections (which they believe are fairly represented under the current Norwegian statutory framework). Despite such assurances, Norwegian Consumer Ombudsman Thon has continued to challenge Apple's iTunes Music Store (iTunes) in Norway, questioning iTunes' consumer practices in a June, 2006 enforcement letter (Ref B). Concerned that Thon's decision would, among other things, adversely affect its Digital Rights Management (DRM) technologies, iTunes responded to the Ombudsman in August. The parties are now in discussions, with an Apple source indicating that the goal is to reach a "middle ground."

French DRM Legislation not viewed as a Model

[1](#)2. (C) On September 27 we delivered Reftel A points to Lars Vaagen, Assistant Director General in the MFA's WTO and OECD Section. Emphasizing that Norway firmly values the importance of developing knowledge-based technologies and ensuring relevant rights holders' protections, Vaagen noted that "many people" in the Norwegian government would find the reftel points of interest. In a separate September 25 meeting, Herman Bengt, Deputy Director General in the Ministry of Church and Culture (the relevant Norwegian authority overseeing copyright matters) confirmed that no amendments to Norway's current IPR laws will be considered until 2009. Bengt (an IPR expert in the Ministry's Department of Media Policy and Copyright) has heard "absolutely no word" that Norway seeks to adopt DRM legislation modeled upon the French law.

Is the Apple Poisoned?

¶3. (C) On September 25, Ombudsman Thon met with iTunes' U.S. leadership, its European representative and Espen Tondel (the company's local legal counsel). Media reports (and the Norwegian Ombudsman's press release) cite several positive statements from Thon (including that a "good and constructive dialogue" occurred, with "important movements in the case"). Thon's press release states that the parties have agreed to a continued dialogue, given that more time was needed "to work further and evaluate the different proposals for technical and legal solutions." A letter from the Ombudsman, summing up the current situation, is slated to be delivered to iTunes in October.

¶4. (C) Speaking to us confidentially about the iTunes meeting with Ombudsman Thon, Tondel said that the meeting's results were "hard to say." iTunes representatives made it clear to Thon that, if necessary, iTunes would withdraw from the Norwegian market. Calling the negotiations a matter of tactics, Tondel believes that some resolution would likely take place in a couple of months. He suggests that the Ombudsman is embracing a more conciliatory tone in the negotiations, yet must ultimately reach a decision which would allow him to save face.

¶5. (C) He emphasized that Apple is not currently looking for direct U.S. governmental support (previously discussed in Reftel B). If the matter goes in the wrong direction, he concludes that iTunes may reach out for our assistance. Tondel characterizes Apple's corporate policy as "tight-lipped," with the company making a strategic decision

to maintain minimal media exposure on this issue.

Comment: Not Upsetting the Apple Cart

¶6. (C) Comment. Norway does not plan to amend its current IPR laws, let alone adopt laws similar to the controversial French copyright legislation. If any changes are planned to Norway's IPR legislation (and government officials have given no indication that any such amendments would be made), new laws will not be in place until 2009, when the current IPR legislation terminates. Ministry of Church and Culture officials repeatedly emphasize the need to protect rights holders via Norway's IPR legislation.

¶7. (C) Comment Continued. Ombudsman Thon's challenge of iTunes is based solely upon his consumer powers (given that his agency is not responsible for IPR legislation/oversight).

Thon underwent a remarkable public transformation, now noting his willingness to cooperate with iTunes. One of his well-documented statements (issued prior to his September meeting with iTunes representatives) was that he was "likely to rule against Apple, but it is fair to hear their point of view." The current conciliatory public statements (echoed by iTunes' local counsel's observations) indicate a surprisingly new desire to negotiate. We wonder whether Apple's threat during recent closed-door negotiation sessions to withdraw from the Norwegian market influenced this dramatic change. Stay tuned.

WHITNEY